

**Case 7-08 - M Coetzer vs Mr S G J van Niekerk and Mrs L van Niekerk**

The Disciplinary Sub-Committee (DSC) met on 07.03.2009 and, after careful consideration of all the evidence, including verbal evidence given at the hearing as well all the documents and statements presented by both the Defendants and the Complainant and submissions by both parties Legal Representatives, reached the following conclusions and made the following decisions:

**MR S G J VAN NIEKERK KUSA MEMBER NO: 172904 (DEFENDANT NO 1)**

And

**MRS L VAN NIEKERK KUSA MEMBER NO: 130035 (DEFENDANT NO 2)**

**FINDING:** The members of the DSC unanimously finds both the above defendants no: 1 and no: 2 guilty of the contravention of the offences as contained in Rule 2.1, Rule 2.2, Rule 2.5 and Rule 2.6 of Schedule 1 of the KUSA Constitution. That both defendants no: 1 and no: 2, at all times knowingly acted together as a husband and wife team and committed the following acts:

- (a) As KUSA members and breeder/s of purebred KUSA registered Staffordshire Bull Terriers received the amount of N\$6500-00 (six thousand five hundred Namibian Dollars) from a certain Mrs Maureen Visser during July 2008, as payment for a puppy Staffordshire Bull Terrier that would be registered with KUSA and delivered to her within a certain time period, and who, to date, has dishonestly failed to either provide Mrs. Visser with such a puppy or refund her the amount received as payment, regardless of her expectations and numerous requests to do so.
- (b) As KUSA members and breeder/s of purebred KUSA registered Staffordshire Bull Terriers fraudulently, dishonestly and deceitfully brought Mrs. Angelique Anna Love, a fellow KUSA member, under the false impression that the Staffordshire Bull Terriers that she had purchased from the Defendants for large sums of money during 2007, were progeny of or closely related to certain prominent award winning dogs from the Defendants' kennel and even provided her with copies of KUSA registration certificate indicating who the sire and dams of the purchased dogs are, only at a much later stage providing Mrs. Love with original KUSA registration certificates that reflected other dogs and bitches as the sires and dams than promised. That they had further placed breeding restrictions on the KUSA registration certificates of the dogs purchased from them knowing full well that Mrs Love was intending to breed with/from these dogs as was agreed with them and further that the provided veterinary certificates reflected incorrect dates and information as to the dogs purchased.

- (c) As KUSA members and breeder/s of purebred KUSA registered Staffordshire Bull Terriers received the amount of R5500-00 (five thousand five hundred rand) from a certain Mrs. Annaline van Heerden during or about October 2007, as payment for a puppy Staffordshire Bull Terrier that would be registered with KUSA, and placed in her possession within a certain period of time and who had failed to do so as was promised by them due to the provided excuse that the puppy had apparently "escaped" from their property before delivery to Mrs. Van Heerden could take place. That despite requests for the full refund of the purchase price, they further only refunded Mrs. Van Heerden in the sum of R1500-00 (one thousand five hundred rand) of the paid purchase price and had to date dishonestly and/or fraudulently failed to refund her with the balance of R4000-00 (four thousand rand) and offered the unacceptable excuse that they had used the money to fund shows.
- (d) As KUSA members and breeder/s of purebred KUSA registered Staffordshire Bull Terriers sold a puppy dog that was registered with KUSA as a purebred Staffordshire Bull Terrier dog with the registered name of Riefra Double O Seven, KUSA registration No: BY010993, to a certain Mr. Brown who later reported to them that this dog was obviously not a pure bred Staffordshire Bull Terrier and who had also provided them with a photo confirming this. That after it had been confirmed that the dog "Reifra Double O Seven" was obviously not a pure bred Staffordshire Bull Terrier, they omitted to withdraw the said dogs registration papers and further failed to request KUSA to de-register such a dog from the pure bred Staffordshire Bull Terrier Register of KUSA and that by omitting to do so allowed an obvious crossbred dog to, through their continued misrepresentation, remain to be registered as pure bred Staffordshire Bull Terrier, and thereby wilfully accepting the adverse consequences that such an omission could have on the breed.
- (e) As KUSA members and breeder/s of purebred KUSA registered Staffordshire Bull Terriers sold two puppies, a bitch and a dog, both of which would be registered with KUSA, to a Mrs. Robyn Laurette Clark during or about June 2007, for the purchase price of R10 000-00 (ten thousand rand) for both puppies, and fraudulently, dishonestly and deceitfully brought her under the false impression that one (male) Staffordshire Bull Terrier that she had purchased from the Defendants is the progeny of or closely related to certain prominent award winning dogs from the Defendants' kennel, and only at a much later stage providing Mrs. Clark with original KUSA reg certs that reflected that the sire was a different dog than the one that was promised to her. Further, that the provided KUSA registration certificate incorrectly reflected the bitches colour as 'brindle' instead of 'red and white'. That despite the Defendants being aware of this misrepresentation on the puppy bitches KUSA registration certificate with regard to her coat colour, to date have failed to withdraw such an incorrect registration certificate and request KUSA to rectify the information in order to reflect the correct factual information. By omitting to do this the

Defendants' accepted the adverse consequences that such an omission could have on the breed. Further, that the KUSA registration certificates did not corroborate the information (dates of birth and inoculations etc) reflected on the veterinary certificates provided to her at the time of purchase.

The above mentioned conduct of both the defendants is found by the DSC to be conduct which is improper, disgraceful, discreditable and prejudicial or injurious to the interests of canine affairs and to persons concerned or connected therewith, or to fellow members of KUSA. Further, that both Defendants, having made application to KUSA for registration of Staffordshire Bull Terriers as mentioned herein above, acted fraudulently and dishonestly in connection with the sale of dogs and acted dishonestly and deceitfully in connection with such dogs and/or their pedigrees. Further that the Defendants have omitted to rectify certain incorrect information of dogs bred and/or sold by them in the KUSA registration documents after such incorrect information has come to their knowledge and have also failed to withdraw such incorrect registration certificates or requested KUSA to rectify any incorrect entries on the registration certificates of such dogs.

**PENALTIES:**

The DSC imposed the following penalties on Defendants no1 and no 2:

- (a) In terms of the provisions of Rule 8.1 both the Defendants are expelled from membership of KUSA and any Affiliated Club for life; and
- (b) In terms of the provisions of Rule 8.2 both the Defendants are suspended from taking part in or having any connection with or attending Show, Obedience Classes, Working Trails or Field Trial or other event held under KUSA license or from acting as an officer of any Club for life; and
- (c) In terms of the provisions of Rule 8.3 both the Defendants are disqualified from registration, recording transfer, exhibition or competition of all dogs owned by them jointly or separately or recorded in any of their names or owned and registered or recorded by any of them jointly with another or others or owned and registered or recorded in the name/s of a nominee/s, or the progeny of any dogs owned by them or owned or registered or recorded by any of them jointly with another or others or owned or registered or recorded in the name of a nominee for life, and
- (d) In terms of the provisions of Rule 8.5 both the Defendants are disqualified from judging at or taking part in the management of a Show, Obedience Classes, Working Trials or Field Trials or other event held under KUSA license for life, and
- (e) In terms of the provisions of Rule 8.6 as well as 9.1 the Defendants are ordered to pay a fine of R5000-00 (five thousand rand) each, which fines are to be paid before the 30 April 2009 to the Secretary of KUSA. In terms of the provisions of Rule 9.3 of Schedule 1, in the event of any

one or both of the Defendants making default in payment of this fine imposed on them, they shall both for so long as such default continues, be suspended as provided for in Rule 8.2 of Schedule 1 of the KUSA Constitution, Rules and Regulations pending the decision of the Federal Council on such alternative penalties that may be determined as the result of a default.

In accordance with the provisions of Rule 8.9 of Schedule 1, the DSC deemed it fit to suspend the penalties as reflected in (a), (b), (c) and (d) hereof in total for a period of 10 (ten) years, on condition that the Defendants jointly, or any one of them separately, are/is not found guilty by a DSC of KUSA of the contravention of any act or conduct as provided for in Rule 2 of Schedule 1 of the KUSA Constitution or any other provisions contained in the KUSA Constitution, Rules and Regulations that would form the basis for a valid complaint in terms thereof during the period of suspension.

This penalty and the conditions of suspension are only applicable to conduct, acts or omissions by the Defendants jointly or any one of them separately arising out of actions committed after the 7 March 2009. Any acts, omissions or conduct by the Defendants resulting in a finding of guilty by a DSC of KUSA, which occurred before the 7 March 2009, may not form the grounds to evoke or give effect to this penalty due to the contravention of the conditions for suspension.

In terms of the provisions of Rule 8.4 of Schedule 1, the KUSA registration pedigree certificate issued to the purebred Staffordshire Bull Terrier dog with KUSA registered name of "Riefra Double O' Seven" and KUSA registration number: BY010993, be withdrawn immediately by the KUSA office, as it is evident that this is not a purebred Staffordshire Bull Terrier and that its registration was obviously due to misrepresentation of its pedigree. That all the registration pedigree certificates of the entire litter of which this dog is a litter mate to, be withdrawn with immediate effect and only re-issued by the KUSA office in the event of their pedigree status being confirmed by means of DNA testing or any other means as may be determined by KUSA. That the KUSA lodge an urgent investigation into the circumstances and events that gave rise to this serious misrepresentation by the breeder who apparently incorrectly registered this litter as pure bred Staffordshire Bull Terriers with KUSA.

In terms of the provisions of Rule 8.4 of Schedule 1, the KUSA registration pedigree certificate issued to the purebred Staffordshire Bull Terrier bitch with the registered name of "Mika" with KUSA registration number: BZ102460, be immediately withdrawn by the KUSA office by virtue of the misrepresentation as to this bitches coat colour (Brindle) and a new registration certificate issued, reflecting the correct coat colour of this bitch as "Red" in accordance with the facts as contained in the record of proceedings of this DSC collated during the proceedings thereof.

**NOTE:**

It is noted that there has been a demand from the Complainant that KUSA place a moratorium on any further registration of any litters bred by the Defendants jointly or separately pending the outcome of this DSC hearing. As

this hearing has now been finalized and in the light of the penalties that have been imposed on the Defendants it is suggested that KUSA (EXCO) lift the imposed moratorium with immediate effect and continue with the registration of any litters bred by the Defendants.

No appeal was lodged.